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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,431	12/30/2003	Brian Alan Grove	3801P101	9577
49845	7590	08/14/2006	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY P.O. BOX 2938 MINNEAPOLIS, MN 55402				GART, MATTHEW S
ART UNIT		PAPER NUMBER		
		3625		

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/749,431	GROVE ET AL.	
	<b>Examiner</b> Matthew S. Gart	<b>Art Unit</b> 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-16 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-16 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12/20/2006 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

***Drawings***

The drawings were received on 12/20/2006. The Examiner accepts these drawings.

***Claim Objections***

Claim 4 is objected to because of minor typographical informalities. The language "...when the receiving the question to receive the question..." is unclear. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 3-5, 7-9, 11-13 and 15-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Morin (U.S. Patent No. 6,748,422).**

Referring to claim 1. Morin discloses a network-based commerce system including:

- A processor coupled to a memory through a bus (Morin: at least Fig. 1); and
- A fixed price-setting process executed from the memory by the processor to cause the processor to receive a question associated with a listing for an item during a network-based auction price-setting process (Morin: at least Fig. 4A), and to provide an answer to the question via a communications network (Morin: at least Fig. 7B-1, “409”).

Referring to claim 3. Morin further discloses a network-based commerce system wherein the fixed price-setting process further causes the processor, when providing the answer to provide the answer to the question via an electronic mail message over the communications network (Morin: at least column 5, lines 34-58, “The recipient user will

receive the message including the sending user's e-mail address so that the recipient user can respond if desired.").

Referring to claim 4. Morin further discloses a network-based commerce system wherein the fixed price-setting process further causes the processor to receive the question from a bidder over the communications network (Morin: at least column 5, lines 34-58, "The recipient user will receive the message including the sending user's e-mail address so that the recipient user can respond if desired.").

Referring to claim 5. Morin further discloses a network-based commerce system including: a means for receiving a question associated with a listing for an item during a network-based auction price-setting process; and a means for providing an answer to the question via a communications network (Morin: at least column 5, lines 34-58, "The recipient user will receive the message including the sending user's e-mail address so that the recipient user can respond if desired.").

Referring to claim 7. Morin further discloses a network-based commerce system wherein the means for providing includes providing the answer to the question via an electronic mail message over the communications network (Morin: at least Fig. 7B-1, **"409"**).

Referring to claim 8. Morin further discloses a network-based commerce system of claim 5, wherein the means for receiving includes receiving the question from a bidder over the communications network (Morin: at least Fig. 7B-1, “409”).

Referring to claims 9 and 11-12. Claims 9 and 11-12 contains limitations similar to those in claims 1, 3-5 and 7-8. Claims 9 and 11-12 are rejected under the same rationale as set forth above in claims 1, 3-5 and 7-8.

Referring to claims 13 and 15-16. Claims 13 and 15-16 contains limitations similar to those in claims 1, 3-5 and 7-8. Claims 13 and 15-16 are rejected under the same rationale as set forth above in claims 1, 3-5 and 7-8.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2, 6, 10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morin (U.S. Patent No. 6,748,422) in view of Coffman (U.S. Patent Application Publication No. 2004/0215467).**

Referring to claim 2. Morin discloses a network-based commerce system according to claim 1 as indicated supra. Morin does not expressly disclose wherein the fixed price-setting process further causes the processor, when providing the answer to publish the question and the answer on the listing for the item.

Coffman discloses a network-based commerce system wherein the fixed price-setting process further causes the processor, when providing the answer to publish the question and the answer on the listing for the item (Coffman: paragraph 0136)..

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to have modified the system of Morin to have included the teachings of Coffman in order to solve inefficiencies in managing high volume activities (Coffman: paragraph 0010).

Referring to claim 6. Claim 6 contains limitations similar to those in claim 2. Claim 6 is rejected under the same rationale as set forth above in claim 2.

Referring to claim 10. Claim 10 contains limitations similar to those in claim 2.

Claim 10 is rejected under the same rationale as set forth above in claim 2.

Referring to claim 14. Claim 14 contains limitations similar to those in claim 2.

Claim 14 is rejected under the same rationale as set forth above in claim 2.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

"Snap up a bargain at online auctions," Matthew Wall, Sunday Times, London (UK), March 25, 2001, pg. 17

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew S. Gart whose telephone number is 571-273-3955. The examiner can normally be reached on M-F, 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Smith can be reached on 571-272-6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



MSG  
Primary Examiner  
August 9, 2006